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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/441,191	11/15/1999	DANIEL P. ORAN		3980
25181	7590	11/17/2004		
FOLEY HOAG, LLP			EXAMINER	
PATENT GROUP, WORLD TRADE CENTER WEST			CHAMPAGNE, DONALD	
155 SEAPORT BLVD			ART UNIT	PAPER NUMBER
BOSTON, MA 02110			2121	

DATE MAILED: 11/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/441,191	ORAN, DANIEL P.
Examiner	Art Unit	
Donald L. Champagne	2121	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 13 August 2004.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-8, 10-12, 14-20, 48 and 49 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) 1-8, 10-12 and 48 is/are allowed.

6) Claim(s) 14-20 and 49 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 15 November 1999 is/are: a) accepted or b) objected to by the Examiner.

 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ .
5) Notice of Informal Patent Application (PTO-152)
6) Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102 and 35 USC § 103

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 14, 19 and 49 are rejected under 35 USC 102(e) as being anticipated by Bezos et al. (US pat. 6,029,141).
4. Bezos et al. teaches (independent claim 14) an apparatus for facilitating and tracking personal referrals, comprising a storage device **144** and a **web server processor 132** (Fig. 1), said storage device storing a program for controlling said processor, and said processor operative with said program to (col. 2 lines 19-47): generate a unique identifier, a *unique* associate ID (col. 2 line 42), for the pairing of an individual (col. 2 line 21) and one offer to become an associate; sending to said individual an electronic-mail message that contains a web page (col. 2 lines 23-24) whose address or contents include said unique identifier or a transformation thereof; providing in said web page instructions for building a website with referral links (col. 2 line 46), which reads on "providing in said web page a means of inputting the electronic-mail address of persons whom said individual wishes to refer", said input of the email address providing means for tracking the referral in order to pay commissions (col. 6 lines 48-54), including updating at least one database to associate the email addresses of the customers whom the associate wishes to refer, and for

each email address of the customers whom the associate wishes to refer, generating a unique customer identifier.

5. Bezos et al. also teaches at the citations given above claim 19. Bezos et al. also teaches (claim 49) providing in said web page a means (the "No" button at the bottom of Fig. 3c) of opting out of receiving all such an electronic-mail messages.
6. Claims 15 and 20 are rejected under 35 USC 103(a) as being obvious over Bezos et al.
7. Bezos et al. does not teach (claim 15) determining if the individual has previously been sent an electronic-mail message about the offer. However, because Bezos et al. does teach that scrutiny of associate applications is important to eliminate undesirable applicants (col. 9 lines 46-49), it would have been obvious to one of ordinary skill in the art, at the time of the invention, to determine if the individual has previously been sent an electronic-mail message about the offer.
8. Bezos et al. does not teach (claim 20) determining if the offer is still valid. Since there would be no point in distributing invalid offers, it would be obvious to determine if a prospective offer were still valid.
9. Claims 16-18 are rejected under 35 USC 103(a) as being obvious over Bezos et al. in view of Poulton et al.
10. Bezos et al. does not teach determining whether said individual had previously opted out. However, Poulton et al. discloses this feature at col.10, lines 8-19. It would have been obvious to one of ordinary skill in the art, at the time of the invention, to include the "opting out" feature as taught by Poulton et al. into the referral system of Bezos et al. "to alleviate the anger ... of recipients barraged by unwanted and irrelevant e-mail" (Poulton et al., col. 3 lines 55-60).

DDC
11-15-04 1-8, 10-12 **Allowable Subject Matter**

11. Claims 1-12 and 48 are allowed.

12. Allowance is further dependent on successful vetting by a "second pair of eyes". Examiner has performed every search deemed reasonable, but does not ask for review of allowable

subject matter until applicant indicates willingness to put the application in condition for allowance.

13. The following is an examiner's statement of reasons for the indication of allowable subject matter: the closest prior art, Bezos et al, does not teach or suggest providing in said Web page a means to allow the individual to provide the email address of persons to whom said individual wishes to refer the employment opportunity.

Conclusion

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald L Champagne whose telephone number is 571-272-6717. The examiner can normally be reached from 6:30 AM to 5 PM ET, Monday to Thursday. The examiner can also be contacted by e-mail at donald.champagne@uspto.gov, and *informal* fax communications (i.e., communications not to be made of record) may be sent directly to the examiner at 571-273-6717. The examiner's supervisor, Anthony Knight, can be reached on 571-272-3687.

15. **ABANDONMENT** – If examiner cannot by telephone verify applicant's intent to continue prosecution, the application is subject to abandonment six months after mailing of the last Office action. The agent, attorney or applicant point of contact is responsible for assuring that the Office has their telephone number. Agents and attorneys may verify their registration information including telephone number at the Office's web site, www.uspto.gov. At the top of the home page, click on Site Index. Then click on Agent & Attorney Roster in the alphabetic list, and search for your registration by your name or number.

Donald L. Champagne
Primary Examiner
Art Unit 2121

15 November 2004

DONALD L. CHAMPAGNE
PRIMARY EXAMINER

A handwritten signature in black ink, appearing to read "D.L.C.", is written over a curved line. To the left of the signature, the name "DONALD L. CHAMPAGNE" is printed in capital letters, with "PRIMARY EXAMINER" printed directly below it.